

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY FERRARE, on behalf of himself
and all others similarly situated,

Plaintiff,

Civil Action No.: 2:14-cv-04658-AB

v.

Class Action

IDT ENERGY, INC.

Defendant.

ORDER

AND NOW, this _____ day of _____, 2014, upon consideration of Defendant IDT Energy, Inc.’s (“IDT”) Motion to Stay or, Alternatively, Dismiss Plaintiff’s First Amended Complaint, and any opposition thereto, it is hereby **ORDERED** and **DECREED** that said Motion is **GRANTED** and this Action is hereby **STAYED** until such time as the Pennsylvania Public Utility Commission has made a final determination as to whether IDT charged prices inconsistent with its Terms of Service.

BY THE COURT:

J.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

ANTHONY FERRARE, on behalf of himself and all others similarly situated,	:	
	:	
Plaintiff,	:	Civil Action No.: 2:14-cv-04658-AB
v.	:	Class Action
IDT ENERGY, INC.	:	
	:	
Defendant.	:	
	:	

**DEFENDANT IDT ENERGY, INC.’S MOTION TO STAY OR, ALTERNATIVELY,
DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT**

Pursuant to the doctrine of primary jurisdiction and Federal Rule of Civil Procedure 12(b)(6), Defendant IDT Energy, Inc. (“IDT”), by and through its undersigned attorneys, hereby moves for entry of an order staying this Action until such time as the Pennsylvania Public Utility Commission has made a final determination as to whether IDT charged prices inconsistent with its Terms of Service. Alternatively, IDT moves for entry of an order dismissing Plaintiff’s First Amended Complaint for failure to state a claim upon which relief may be granted. The grounds for this Motion are stated more fully in the accompanying Memorandum of Law, and the exhibits thereto, which are incorporated by reference as if set forth in full herein.

Dated: October, 20 2014

Respectfully submitted,

/s/ Marc A. Goldich
Marc A. Goldich (SBN 93055)
REED SMITH LLP
Three Logan Square
1717 Arch Street, Suite 3100

Philadelphia, PA 19103
Tel: +1 215 851 8100
Fax: +1 215 851 1420
mgoldich@reedsmith.com

Thomas L. Allen (SBN 33243) (*admitted pro hac vice*)
Justin J. Kontul (SBN 206026) (*to be admitted pro hac vice*)
REED SMITH LLP
225 Fifth Avenue
Pittsburgh, PA 15222
Tel: +1 412 288 3066
Fax: +1 412 288 3063
tallen@reedsmith.com
jkontul@reedsmith.com

Counsel for Defendant IDT Energy, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a true and correct copy of the foregoing Defendant IDT Energy, Inc.'s Motion to Stay or, Alternatively, Dismiss Plaintiff's First Amended Complaint and all accompanying papers on October 20, 2014 via CM/ECF upon the following counsel of record:

Troy M. Frederick, Esquire
Marcus & Mack, P.C.
57 South Sixth Street
Indiana, PA 15701

Jonathan Shub, Esquire
Seeger Weiss LLP
1515 Market St, Suite 1380
Philadelphia, PA 19102

REED SMITH LLP

By: /s/ Marc A. Goldich
Marc A. Goldich